

Appl. No. 10/810,358
Docket No. 9188R&
Amdt. dated June 15, 2006
Reply to Office Action mailed on May 16, 2006
Customer No. 27752

REMARKS

Response to Restriction Requirement

The Examiner has required, under 35 USC §121, election of a single group of claims for prosecution on the merits. A provisional election is made herein with traverse.

Traversal of Restriction Requirement

The traversal of the indicated restriction requirement is requested as it is considered improperly made. The Examiner states that Group I is directed to determining efficacy of a treatment of inflammatory diseases of the bowel in mammals *in vivo* and that Group II is directed to an *in vitro* method of screening compositions for efficacy in the treatment of inflammatory diseases of the bowel. The Examiner asserts that the methods have different intended uses, goals, starting and ending points and require different method steps.

The Applicants respectfully disagree. The methods defined by Groups I and II do have the same goal – to determine efficacious treatments for inflammatory diseases of the bowel. Both methods measure the same parameters or variables – the various anti-inflammatory and pro-inflammatory cytokines – and both compare the ratio of anti-inflammatory cytokine levels to the levels of the pro-inflammatory cytokines in order to determine efficacy of the various treatments. Therefore, the Restriction Requirement is improper and should be withdrawn.

However, in compliance with the Restriction Requirement, the Applicants provisionally elect, with traverse, Group I. Claims 1-23 are drawn to the *in vivo* method of Group I.

Response to Election of Species Requirement

The Examiner has required, under 35 USC §121, election of a single disclosed species for prosecution on the merits for each of: anti-inflammatory cytokines, pro-inflammatory cytokines, and compounds inducing *in vitro* stimulation, and to which the claims shall be restricted if no generic claim is finally held to be allowable. Provisional elections are made herein with traverse.

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In compliance with the Election of Species Requirement, the Applicants provisionally elect interleukin-10 as the anti-inflammatory cytokine; interleukin-12 as the pro-inflammatory cytokine; and a probiotic as the compound inducing *in vitro* stimulation.

The Examiner notes that with respect to the anti-inflammatory cytokine, Claims 1-3 and 9-23 of Group I are generic; with respect to pro-inflammatory cytokines, Claims 1-5 and 9-23 of Group I are generic; and with respect to stimulation compounds, Claims 1-11 and 16-23 of Group I are generic. The Applicants note therefore that upon the allowance of a generic claim, the Applicants will be allowed consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR § 1.141.

Conclusion

The Applicants therefore respectfully request that Examiner reconsider the Restriction and Election of Species Requirements and proceed to examination of the application on the merits. If the Examiner believes that personal contact would be beneficial for disposition of the present application, the Examiner is respectfully requested to contact the undersigned.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By Kristin Kohler
Signature

Kristin Kohler
Registration No. 41,907
(513) 662-3371

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